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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,720	06/19/2001	Pierfrancesco La Mura	COM-003CIA	3300
758	7590	10/04/2006	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER
			3693	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,720

Applicant(s)

MURA ET AL.

Examiner

Daniel S. Felten

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-17, 24-26 and 62-65 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 10-17, 24-26 and 62-65 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/01/2006.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Receipt of the Request for Continued Examination ("RCE") and amendment filed August 01, 2006 amending dependent claims 24-26 is acknowledged. Claims 10-17, 24-26 and 62-65 remain pending in the application and are presented for examination.

2. Applicant's amendments with respect to claims 24-26 have been considered and overcome the 35 USC 101 rejection of the previously mailed January 30, 2006 Office Action. Thus the 35 USC 101 Rejection is withdrawn.

Supplemental Information Disclosure Statement

3. The information disclosure statements (IDS) submitted on August 01, 2006 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

4. Applicants' arguments presented on the April 27, 2005 response and reiterated in the RCE with respect to claims 10-17, 24-26 and 62-64 have been considered, but are not persuasive. The applicant has asserted that neither Brown and Walker suggest the limitation of claims 10 and 62 of

"a mechanism module operatively coupled with said interface module to interactively drive transaction module so as to perform transactions according to at least one auction rule defined by said mechanism module."

It is respectfully submitted for applicant to read Walker, Column 37, lines 6-34

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"In one method of the present invention, central controller 200 uses end user profile to select the experts. End user profile represents rules for unattended handling of transactions and is stored in end user database 260. For example, the end user might want to select the first expert to reply, the three least expensive experts, the most expensive expert or the expert with the highest qualifications 140 from expert qualifications database 285. The end-user could require a minimum number of experts, or that he wants everyone who accepts end user request 120 within 20 minutes. These are stored in the end user profile 150, allowing central controller 200 to automate more of the selection process..."

Here, Walker explicitly discusses end-user rules that are provided via the end-user profile for transactions handled via the end-user database. Brown also implicitly discloses a profile stored in the bidder database (bid entry form) and used by the central computer to perform transactions on behalf of individual bidders within a pool of bids (see Brown fig. 5, column. 6, lines 42-52; and column 7, lines 60 to column 8, line 59). Thus it is maintained that the both Brown and Walker suggest the aforementioned limitation as the term module may include collection of routines and/or data structures (software) as well as self-contained hardware components that can be interchanged to provide various functions.

The applicant has asserted that neither Brown and Walker suggest the limitation of claim 65 of

"admit to each of a subsequent round of bidding a subset of bidders from a previous round responsive to a bid value placed by each of said plurality of bidders, wherein said subset of bidders are assessed a payment in response to being admitted in each subsequent round."

It is respectfully submitted that in Walker's system the next round of bidders may be based upon criteria of the expert that includes bid- offers (or *bid values*) to maximize the expert's earnings (see Walker, col. 38, lines 40-56).

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In regards to the bidders being "...assessed a payment ." the examiner is not sure what the applicant means by this. Are you saying that the bidders have to make a payment to the system for each round they participate in? Or, are you saying that there are payments made to the bidders that win each round (e.g., like cash back. Discount, refund)?

Therefore, rejections using Brown and Walker are maintained

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-17, 24-26, and 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,794,219) in view of Walker (US 5,862,223)

Brown discloses, an online auction system servicing at least one seller and at least one bidder (see Abstract),

An interface module and transaction module(76—bid entry form)

in a processing device a product for a team (or tournament) auction system (see figs. 7-10)-*claims 10*

Partition participants into teams [110, 661] wherein a team comprises team members (38) (see col. 6, 11. 53 to col. 8, 11. 59)- *claims 10*

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Determine a team bid and aggregating bids of team members (see col. 6 11. 65 to col. 7. 11. 5; and col. 8, 11. 4-18)-*claims 10, 11, 12, 14, 26*

Determine a winning team based on said team bid allocate items to said team (see col. 8, 11. 36-46) -*claims 10, 13, 23*

A media readable by said processing device that stores said instructions (see col. 6, 11. 4 1+)- *claim 10*

A participant chooses a team at the beginning of the team auction (see col. 6, 11. 25-40)-
claim 15

Brown fails to disclose proceeding to at least an additional round. Walker discloses an auctioning embodiment where the end users create request and submit them to a central controller. The request are submitted to a pool of bidders which bid over a number of rounds (see Walker col. 38, 11. 12+). It would have been obvious for an artisan at the time of the invention of Brown to recognize the advantages of multi-round auction to provide the bidders with a more than one shot to acquire a good and/or service. Thus an artisan of ordinary skill at the time of the invention would have been motivated to provide a greater opportunity for competing bidders to acquire goods and services as well as provide the seller with a better price for the good or service.

--Also see reasoning provided above in the Response to Arguments for Brown and Walker disclosing:

--a mechanism module operatively coupled with said interface module to interactively drive transaction module so as to perform transactions according to at least one auction rule defined by said mechanism module, as in claims 10 and 62

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--admit to each of a subsequent round of bidding a subset of bidders from a previous round responsive to a bid value placed by each of said plurality of bidders, wherein said subset of bidders are assessed a payment in response to being admitted in each subsequent round, as in claims 65.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DSF
9/11/2006

Daniel S Felten
Examiner
Art Unit 3693